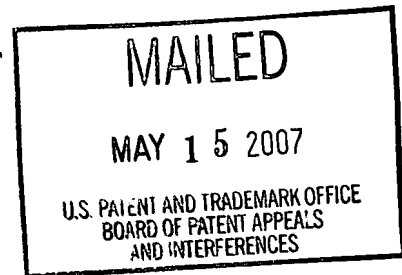


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ANDREW C. NEFF

Application 09/534,836
Technology Center 3600



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on April 4, 2007. A review has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below:

INFORMATION DISCLOSURE STATEMENTS

The USPTO received several Information Disclosure Statements submitted by the Appellant. The Information Disclosure Statements in question were received on July 15, 2005 and December 16, 2005. It is not clear from the record whether the Examiner considered the Information Disclosure Statements or

Application 09/534,836

whether the Examiner notified Appellant why his submissions did not meet the criteria set forth in 37 C.F.R. §§ 1.97 and 1.98. Clarification is required.

EXAMINER'S ANSWER

On June 30, 2006, an Examiner's Answer was entered into the record. In the Evidence Relied Upon section, page no. 2, paragraph 8, the Examiner has stated that "[n]o evidence is relied upon by the [E]xaminer in the rejection of the claims under appeal." A review of the file reveals that references to Challener et al. (U.S. Patent No. 6,081,793) and Herschberg ("published literature provided by Applicant") were applied to the statement of rejections in the Grounds of Rejection, paragraph (9) of the Examiner's Answer. Before further review, the Examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the list of references mentioned in the statement of rejections. *See the Manual of Patent Examining Procedure, (MPEP) § 1207.02.*

Further review of the Examiner's Answer reveals that an Appeal Conference was not held. The required Appeal Conferee's printed names and signatures are missing. *See MPEP § 1207.01.* Appropriate correction is required.

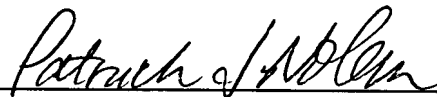
Application 09/534,836

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) vacate the Examiner's answer of June 30, 2006, issue and mail an Examiner's Answer having the missing references listed under the Evidence Relied Upon section, paragraph (8) in the Examiner's Answer;
- 2) to hold an Appeal Conference in accordance with *MPEP* § 1207.01; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/hh

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247